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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,873	01/30/2004	Teruaki Itoh	160-407	4090

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EXAMINER

WALLENHORST, MAUREEN

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/766,873	ITOH, TERUAKI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Maureen M. Wallenhorst	1743	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wada et al (US Patent no. 5,199,937 or JP 03-080954, submitted in the Information Disclosure Statement filed on May 4, 2005) in view of Kuster et al.

Wada et al teach of a centrifugal separator that comprises a disc-like rotor 1 having four recesses or slots arranged radially from a rotation axis of the disc. In each recess or slot is located a specimen container bucket 3 for accommodating a set of four mounted specimen tubes

2. The buckets 3 are supported in the slots by a pair of pins projecting into the slots from the rotor 1. A shaft 11 of the rotor 1 is connected to a motor 6 located below the rotor 1. The buckets 3 have a rectangular parallelepiped frame having a support structure at the top with holes

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to accommodate specimen tubes 2. See Figure 2 in Wada et al. When the rotor 1 starts rotating, centrifugal force acts on the tubes 2 in the buckets 3, and both the tubes 2 and buckets 3 are swung up radially and outwardly by the centrifugal force, resulting in the liquid content of the tubes flowing outward along the inner peripheral surface of the tubes. See lines 64-68 in column 2 and lines 1-42 in column 3 of Wada et al. Wada et al fail to teach that the slots are closed at the radial outermost ends thereof so as to provide the rotor with a continuous circumference.

Kuster et al teach of an apparatus having a centrifuge unit 40 therein. The centrifuge unit 40 includes a plurality of circumferentially spaced and radially extending slots 42, each adapted to receive a cassette holding multiple different blood samples. See Figures 1, 3 and 5 in Kuster et al. The slots 42 are closed at the radial outermost ends thereof so that the centrifuge rotor has a continuous circumference.

Based upon the combination of Wada et al and Kuster et al., it would have been obvious to one of ordinary skill in the art at the time of the instant invention to close the radial outermost ends of the slots in the rotor taught by Wada et al, similar to the slots disclosed by Kuster et al, so as to ensure that the buckets held by the slots do not slip or fall out of the slots during centrifugation or rotation of the rotor.

5. Applicant's arguments filed February 15, 2006 have been fully considered but they are not persuasive.

Applicant argues the previous rejection of the claims made in the last Office action mailed on September 21, 2005 under 35 USC 102(b) as being anticipated by Wada et al by stating that the slots in Wada et al are open at the radial outermost ends, whereas instant claim 1 recites that the slots are closed at the radial outermost ends. In response to this argument, it is

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noted that the rejection of claim 1 has been changed to a rejection under 35 USC 103 as being obvious over Wada et al in view of Kuster et al, as necessitated by Applicant's amendments to claim 1. The secondary reference to Kuster et al teaches of a centrifuge rotor that has slots therein for holding cassettes, wherein each of the slots has its radial outermost end closed. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to close the radial outermost ends of the slots in the rotor taught by Wada et al, similar to the slots disclosed by Kuster et al, so as to ensure that the buckets held by the slots do not slip or fall out of the slots during centrifugation or rotation of the rotor.

Applicant also argues that Wada et al do not teach of tube-type specimen containers in the buckets 3. However, contrary to Applicant's argument, it is noted that the specimen containers 2 held within the buckets 3 taught by Wada et al are tube-type. See Figures 2-4 in Wada et al that depict test tube-like containers 2.

For all of the above reasons, Applicant's arguments are not found persuasive.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen M. Wallenhorst whose telephone number is 571-272-1266. The examiner can normally be reached on Monday-Thursday from 6:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden, can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maureen M. Wallenhorst  
Primary Examiner  
Art Unit 1743

mmw

April 3, 2006

*Maureen M. Wallenhorst*  
MAUREEN M. WALLENHORST  
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